IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

THURSDAY, THE 1ST MARCH 2007 / 10TH PHALGUNA 1928

Bail Appl..No. 1240 of 2007

CC.114/2005 of J.M.F.C.-I,KOZHIKODE
CRIME NO.274/2004 OF CHEVAYOOR POLICE STATION

.....

PETITIONER/ACCUSED NO.1

NIDUMBRATH BASHEER, S/O.POKKAR HAJI,
AGED 38 YEARS, BUSINESS, RESIDING AT VELLUR
AMSOM, CHALAPRAM DESOM, NADAPURAM,
VADAKARA TALUK, KOZHIKODE.

BY ADV. SRI.R.SURENDRAN

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR P.N. SUKUMARAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 1.3.2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.RAMKUMAR, J.

Bail Application No. 1240/2007

Dated this 1st day of March, 2007

O R D E R

The petitioner who is the first accused in Crime No.274/2004 of Chevayoor Police Station for offences punishable under Sections 448, 294(b) and 506(i) IPC read with Section 34 IPC, seeks anticipatory bail.

2. Consequent on the non appearance of the petitioner during the trial of the case, which is now pending before the J.F.C.M-I, Kozhikode, as C.C.No.114/2005, his bail was cancelled and non bailable warrants of arrest have been issued against him.

3. Anticipatory bail cannot be granted to nullify the process issued by a Court of competent jurisdiction. But at the same time, the petitioner should be able to surrender before the Magistrate concerned and offer his explanation for his non appearance on the previous day especially when it is submitted that the only witness examined on the previous day was PW1, who does not disputed the identity of the petitioner.

4. Accordingly, the petitioner is directed to surrender before the trial Court and file an application for regular bail

which shall be considered and disposed of preferably on the same day on which it is filed, after examining the explanation offered by the petitioner for his previous non appearance and also after considering the fact whether the petitioner could have been represented by his counsel as there was no question of identity of the petitioner while PW1 was being examined.

The application is disposed of as above.

V.RAMKUMAR,
JUDGE

mrcs